

UNITED STATES DISTRICT COURT FILED
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DISTRICT OF MASSACHUSETTS
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JOSEPH PETER SCHMITT, PRO SE,) U.S. DISTRICT COURT
PLAINTIFF,) DISTRICT OF MASS
VS) C.A. No. 2004-10451-RWZ
JEFFREY SMITH, ET AL,)
DEFENDANTS)

PLAINTIFF'S MOTION FOR DECLARATORY JUDGMENT

Now comes the pro se plaintiff, Joseph Peter Schmitt, and moves this Honorable Court for Declaratory Judgment.

Plaintiff's action is based on a true written account of an intimate relationship he had as a minor with another minor. Said written account is incorrectly being labeled as **CHILD PORNOGRAPHY** by the defendants, and Justice Rya W. Zobel during the January 25, 2005 Scheduling Conference.

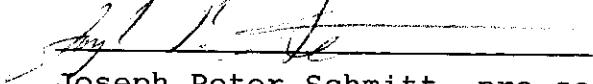
Plaintiff contends that the material in question, though it may contain explicit sexual descriptions of a real life relationship between two minor males, does not meet the criteria for child pornography statute on State and/or Federal level.

In support of pro se plaintiff's contention please see the attached memorandum of law.

WHEREFORE, Plaintiff prays this Honorable Court make a declaratory judgment ruling that the story pertaining to this case is not child pornography, and is in fact protected written expression under the U.S. Constitution First Amendment.

Dated: 1/31/2005

Respectfully submitted,


Joseph Peter Schmitt, pro se
30 Administration Road
Bridgewater, MA. 02324-3230

This shall serve to certify that a copy of the aforementioned motion and memorandum of law has been served upon counsel for the defendants, Philip W. Silva by pre paid first class mail on January 31, 2005


Joseph Peter Schmitt, pro se